

STATEMENT

Insurance Association of Connecticut

Judiciary Committee

March 24, 2010

**SB 481, An Act Concerning Seat Safety Belt Evidence
and Medical Examinations in Personal Injury Actions**

The Insurance Association of Connecticut supports SB 481, An Act Concerning Seat Safety Belt Evidence and Medical Examinations in Personal Injury Actions.

Section 1 of SB 481 seeks to permit information regarding one's failure to wear a seat belt be introduced into evidence for establishing causation and mitigation of damages.

Connecticut law mandates that all occupants of a motor vehicle must wear a seat belt. There is strong public policy behind such mandate, as there is overwhelming evidence that seat belts save lives. However, existing statutory prohibitions against the use of information regarding one's failure to abide by this law to mitigate damages is inconsistent with the law and public policy. In all other types of actions brought to recover damages for personal injuries, one's failure to provide for their own safety can be considered by the trier of fact. There is no sound rationale why an exception was created to that rule simply because someone was violating the law and not wearing their seatbelt.

The failure to wear a seat belt is a significant factor that should be considered because such failure can be causally related to, and the extent of, the injuries an individual sustains in a motor vehicle accident. Statistically a person failing to wear a seat belt has a greater likelihood to be killed or seriously injured in an auto accident,

than a person wearing a seat belt. Additionally, the use of a seat belt reduces the risk of injury from an inflating air bag.

It is sound public policy to require the use of seatbelts, but it is contrary to that policy to hold another responsible for any injuries resulting from failure to abide by that law.

Section 2 of SB 481 simply seeks to expedite the process for the completion of independent medical exams as permitted under Connecticut law. Connecticut law requires plaintiffs to subject themselves to independent medical exams if requested to do so by defendants, however, plaintiffs are refusing, without justification, to submit to such exams. Plaintiffs routinely object to exams conducted by medical experts selected by defendants without ever being required to show a good cause for the objection. Such practice unfairly prejudice defendants and is incompatible with the original intent of the law. Section 2 corrects the inequities of the current system by requiring a plaintiff to submit to an exam by a physician chosen by the defendant absent a showing of good cause. The good cause standard will require plaintiffs to demonstrate a substantial reason that affords a legal excuse from attending the independent medical exam. Section 2 produces a fair result while greatly reducing delay and expense associated with the current practice.

The IAC urges your support of SB 481.